

Notice of Allowability	Application No.	Applicant(s)	
	09/509,188	DROUAUD ET AL.	
	Examiner	Art Unit	
	Stuart F. Baum	1638	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to papers filed 8/5/2004.
2. ☒ The allowed claim(s) is/are 1, 3-8, 12, 14-17 (renumbered 1-12).
3. ☒ The drawings filed on 23 March 2000 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>0904</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

Stuart F. Baum

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Vid Mohan-Ram on 9/21/2004 and 9/24/2004.

IN THE CLAIMS:

--1. (Currently amended) A purified [nucleotide sequence] promoter [consisting essentially of] comprising: nucleotides 1-2056 of SEQ ID NO:3 wherein the [nucleotide sequence] promoter is capable of [expressing] directing expression of a second nucleotide sequence to which it is operably linked.--

--3. (Currently amended) [A cellular] An expression vector[,] comprising [a sequence] the promoter according to claim 1, wherein said [sequence] promoter is upstream of and operably linked to a DNA sequence encoding a [product] protein that is capable of destroying a microspore.

4. (Currently amended) The [cellular] expression vector of claim 3, wherein the [product] protein is a protease.--

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--7. (Currently amended) A plant having gametophytic male sterility with inducible fertility, comprising a [gene] nucleotide sequence encoding a [product] protein, which is operably linked to a male-gametophyte-specific promoter [consisting essentially of] comprising nucleotides 1-2056 of SEQ ID NO:3, and wherein the [product] protein is capable of destroying a microspore.

8. (Currently amended) A method for producing a plant with gametophytic male sterility with inducible fertility, comprising inserting into one or more plant cells a construct that contains a [gene] nucleotide sequence that is operably linked to a gametophyte-specific promoter, wherein the expression product of said [gene] nucleotide sequence is capable of destroying a microspore; and [producing] regenerating a plant therefrom which does not produce a male gamete, wherein said gametophyte-specific promoter [consists essentially of] comprising nucleotides 1-2056 of SEQ ID NO:3, and wherein said promoter is capable of [expressing] directing expression of said [gene] nucleotide sequence.--

--14. (Currently amended) A seed [derived] from the plant [obtained by the method of claim 8] of claim 7, wherein said seed comprises said [construct] male-gametophyte-specific promoter operably linked to said nucleotide sequence encoding said protein.--

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stuart F. Baum whose telephone number is 571-272-0792. The examiner can normally be reached on M-F 8:30-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amy Nelson can be reached on 571-272-0804. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-1600.

Stuart F. Baum Ph.D.
Patent Examiner
Art Unit 1638
September 28, 2004

A handwritten signature in cursive script, appearing to read "Amy Nelson".

AMY J. NELSON, PH.D
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600